

EXHIBIT A

Case Docket Entries

Court:	Circuit	County:	23 - Logan	Case Number:	CC-23-2019-C-66
Judge:	Joshua Butcher	Created Date:	5/14/2019	Status:	Open
Case Type:	Civil	Case Sub-Type:	CONTRACT	Security Level:	Public
Style:	MICHAEL L. WILLIAMS v. BANK OF AMERICA				

	<u>Created Date</u>	<u>Event</u>	<u>Ref. Code</u>	<u>Description</u>
1	5/14/2019	Conversion		COMPLAINT FILED, MAILED COPIES TO ATTORNEY FOR PROCESS, FILED.PC
	1-1 5/14/2019	Other		
2	5/30/2019	Conversion		SUMMONS RETURN ON BANK OF AMERICA, N.A., ACCEPTED BY SECRETARY
	2-1 5/30/2019	Other		
3		Conversion		OF STATE 05/23/19, FILED.PC
4	6/24/2019 11:23:49 AM	E-Filed		Supporting Documents - Stipulation Extending Deadline
	4-1 6/24/2019	Supporting Document - Deadline for M&T Bank to file responsive pleading to Plaintiff's Complaint extended to July 22, 2019		
	4-2 6/24/2019	Transmittal		
5	6/24/2019 11:23:49 AM	Attorney Listed	D-002	A-7204 - Nicholas P. Mooney, II

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner

Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

Vickie Kolofa
Logan Co. Courthouse, Rm. 311
300 Stratton Street
Logan, WV 25601-3939

2019 MAY 30 P 1:47

Control Number: 239512

Defendant: BANK OF AMERICA, N.A.
100 NORTH TRYON STREET
CHARLOTTE, NC 28202 US

County: Logan

Civil Action: 19-C-66-B

Certified Number: 92148901125134100002526198

Service Date: 5/23/2019

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Mac Warner

Mac Warner
Secretary of State



**MOUNTAIN
STATE
JUSTICE**

RECEIVED
Miranda Johnson
Paralegal
2019 MAY 14 10:24 AM
miranda@msjw.org

May 9, 2019

Mark McGrew, Circuit Clerk
Logan County Courthouse
300 Stratton Street
Logan, WV 25601

Re: Michael L. Williams v. Bank of America, N.A., et. al.,

19-C-66 - Butler

Dear Clerk:

Please find enclosed for filing the following documents:

- 1) Memorandum to Clerk for Instituting Civil Action;
- 2) The appropriate number of Summonses to be issued;
- 3) Original Complaint; and
- 4) A check in the amount of \$230.00 for filing fees.

I have also enclosed an extra copy of the Complaint in this matter which needs to be date-stamped and returned to me in the enclosed post prepaid envelope along with the signed Summonses.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to call.

Sincerely,

Miranda Johnson
Paralegal

Enclosures as stated

Plaintiff: Michael L. Williams	CASE NUMBER:
DEFENDANTS: Bank of America, N.A., et al	

II. TYPE OF CASE:

TORTS	OTHER	CIVIL
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Adoption	<input type="checkbox"/> Appeal from Magistrate Court
<input type="checkbox"/> Professional Malpractice	<input checked="" type="checkbox"/> Contract	<input type="checkbox"/> Petition for Modification of Magistrate Sentence
<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Real Property	<input type="checkbox"/> Miscellaneous Civil
<input type="checkbox"/> Product Liability	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Other
<input type="checkbox"/> Other Tort	<input type="checkbox"/> Appeal of Administrative Agency	

III. JURY DEMAND: ☒ Yes ☐ NoCASE WILL BE READY FOR TRIAL BY May 2020IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ☐ YES ☒ NO
IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities
☐ Interpreter or other auxiliary aid for the hearing impaired
☐ Reader or other auxiliary aid for the visually impaired
☐ Spokesperson or other auxiliary aid for the speech impaired
☐ Other:

Attorney Name: Bren J. Pomponio Representing:
 Firm: Mountain State Justice, Inc. ☒ Plaintiff ☐ Defendant
 Address: 1217 Quarrier Street ☐ Cross-Complainant ☐ Cross Defendant
 Charleston, WV 25301
 Telephone: 304/344-3144 Dated: May 8, 2019

Bren J. Pomponio
 Signature

**MEMORANDUM TO CLERK
FOR INSTITUTING CIVIL ACTION**

MICHAEL L. WILLIAMS,

Plaintiff,

v.

Case No. 19c46B

**BANK OF AMERICA, N.A.,
WILMINGTON TRUST, N.A. d/b/a
M&T BANK, and JOHN DOE TRUSTEE,**

Defendants.

	Days to Answer	Type of Service
BANK OF AMERICA, N.A.,	30	Sec. of State
WILMINGTON TRUST, N.A. d/b/a M&T BANK	30	Sec. of State

**PLEASE RETURN ALL FILE STAMPED COPIES AND ALL ORIGINAL
SUMMONSES TO COUNSEL FOR PLAINTIFF(S) FOR SERVICE OF PROCESS**

Please issue summons in the above-styled action as indicated.

Original and 1 copies of Complaint furnished herewith.

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

MICHAEL L. WILLIAMS,

Plaintiff,

v.

Case No. 19 C Lc 13

BANK OF AMERICA, N.A.,
WILMINGTON TRUST, N.A. d/b/a
M&T BANK, and JOHN DOE TRUSTEE,

Defendants.

COMPLAINT

INTRODUCTION

This case arises out the fraudulent misrepresentation and suppression arising out of the purchase and financing of a home in Chapmanville, West Virginia. Defendant Bank of America, N.A. misrepresented to Michael Williams that the home he was considering purchasing was not in a flood plain. Bank of America then suppressed the fact that the property was in fact in a flood zone, inducing Mr. Williams into the purchase and financing. Plaintiff brings this action for actual damages and all appropriate equitable relief.

PARTIES

1. Plaintiff Michael L. Williams is a coal miner, who is married with two young children. He lives with his family at 5939 North Fork Road, Chapmanville, Logan County, West Virginia. Mr. Williams has a high school diploma but is unsophisticated in financial matters.

2. Holder/Owner: John Doe Trustee is the holder of Plaintiff's loan as trustee for mortgage securitization GNMA Pool 00728844CD. John Doe Trustee is the holder of the mortgage loan and subject to all claims and defenses Plaintiff may have arising out of the origination of the loan.

3. Lender: Defendant Bank of America, N.A. ("BANA") was the originating lender of Plaintiff's loan. At all relevant times BANA was and is a national bank doing business in Logan County, West Virginia with its principal place of business at 100 North Tryon Street, Charlotte, North Carolina 28202.

4. Servicer: Defendant Wilmington Trust, N.A. doing business as M&T Bank (M&T) is the current servicer of Plaintiff's loan and is included only to the extent necessary for Plaintiff to receive complete relief that may be accorded with regard to any defense to the enforcement of the loan. M&T has a principal place of business located at 1100 North Market Street, Wilmington, DE 19801

STATEMENT OF FACTS

Contract to Purchase

5. In or around November 4, 2009 Plaintiff entered into a purchase agreement for certain real estate located at 5939 North Fork Road, Chapmanville, Logan County, West Virginia.

6. The purchase agreement was contingent on Plaintiff obtaining a loan insured by the Rural Housing Service (RHS), United States Department of Agriculture (USDA) with a reputable lender.

7. Plaintiff was referred to Defendant BANA to finance the purchase. BANA took an application from Plaintiff for a Single Family Housing Guaranteed Loan Program with RHS.

Appraisal

8. BANA then engaged Landsafe Appraisal Services (Landsafe), BANA's wholly owned appraisal management company, to obtain an appraisal and provide flood certification.

9. BANA, through its agent Landsafe then ordered an appraisal from an appraiser in Wyoming County.

10. (a) The appraiser issued a report dated November 23, 2009 providing an approximate value of \$68,000.00.

(b) The appraisal report stated that the property was located in a FEMA Special Flood Zone Area, pursuant to a map dated February 6, 2008.

Alteration of Appraisal at BANA's Request

11. BANA entered into an agreement with Plaintiff to provide flood certification through its agent, Landsafe, in which Mr. Williams paid a flood certification fee in exchange for a certification from BANA that the property he was purchasing was not in a flood zone.

12. On January 6, 2010, BANA's loan coordinator represented to Mr. Williams in writing that "the flood determination did come back per the loan processor and property is NOT in flood zone requiring flood insurance."

13. (a) BANA then directed the appraiser to change his appraisal report to represent that the site was not in a FEMA Special Flood Hazard Zone.

(b) Thereafter, the appraiser issued a new summary appraisal report, dated February 11, 2010, which provided a backdated effective date of November 23, 2009, in which the appraiser represented that the property was not located in a FEMA Special Flood Hazard Zone.

(c) The appraisal report dated February 11, 2010 referenced the FEMA map dated February 6, 2008, which provided that the subject property was in fact located in a FEMA Special Flood Hazard Zone.

14. Plaintiff relied upon BANA's misrepresentations in agreeing to complete the purchase of the home and to obtain financing. Had Plaintiff known that the property was located in a flood zone, he would not have agreed to purchase the property.

Loan Closing

15. On or around February 17, 2010, Mr. Williams attended a closing in which he agreed to purchase the subject property for \$60,000.00 and financing provided by BANA.

16. The loan was pooled and securitized, and is currently held by John Doe Trustee. M&T is the current servicer.

Contract for Sale and Discovery

17. In or around 2018, Plaintiff sought to sell his home. He obtained a prospective purchaser, and entered into a contract for sale of Plaintiff's home at a price of \$75,000.00.

18. The purchaser discovered that Plaintiff's property was in a FEMA Special Flood Hazard Zone, and communicated that to Mr. Williams in or around April 2019. This was the first time Mr. Williams knew about BANA's misrepresentations and suppressions of fact regarding the flood zone.

19. Because the property was in a flood zone, the purchaser would not agree to purchase the property.

Damage

20. Plaintiff has suffered damages as a result of BANA's misrepresentations and suppressions of fact, including loss of value to property, worry, stress, emotional distress, annoyance, and inconvenience.

COUNT I – FRAUD

21. The Plaintiff incorporates the preceding paragraphs by reference.

22. BANA misrepresented to Plaintiff that the subject property was not located in a flood zone. This was false.

23. BANA intentionally obtained an appraiser to misrepresent the flood zone designation for the purpose of suppressing the true designation and inducing Plaintiff into the loan.

24. BANA's misrepresentations and suppressions were intentional and material.

25. Plaintiff reasonably relied upon the misrepresentations of Defendant BANA when he entered into the purchase and loan.

26. Plaintiff has been damaged by the BANA's misrepresentations and suppressions of fact by entering into a loan in excess of the market value of the home.

27. Plaintiff discovered the fraud in or around April of 2019.

WHEREFORE, Plaintiff respectfully requests the following relief:

- (a) Actual and punitive damages;
- (b) Reasonable attorney's fees and the costs of this action; and
- (c) Such other relief as the Court may deem appropriate and just.

COUNT II – UNCONSCIONABLE INDUCEMENT

28. The Plaintiff incorporates the preceding paragraphs by reference.

29. Defendant BANA has engaged in a pattern of deceptive and predatory lending practices to induce unsophisticated borrowers into exploitive loans secured by their homes.

30. Plaintiff and Defendants occupy dramatically unequal bargaining positions, including that Plaintiff was not regularly engaged in real estate finance and BANA is a large national lender engaged in the business of making home secured loans.

31. The contract was formed without a true meeting of the minds, caused by circumstances including:

(a) The contract at issue was adhesive and drafted by Counterclaim Defendants;

(b) The contract at issue was induced by misrepresentations/suppressions, including misrepresentations regarding the value of the property and its location in a flood zone; and

(d) The loan closing, conducted by Defendants, was extremely quick, and did not involve an explanation of the documents or terms of the loan or provide Mr. Williams with a reasonable opportunity to understand the transaction, such that Mr. Williams was not fully aware of the loan terms.

32. Under the specific circumstances alleged, the contract contains substantively unconscionable and commercially unreasonable terms, which came as a surprise to Plaintiff, including that the loan is for an amount that exceeds the value of the property that it is secured by, thus making refinance or sale impossible and foreclosure a likelihood.

33. The loan was unconscionable, under all circumstances alleged, at the time it was made and/or was induced by unconscionable conduct, and therefore was unenforceable.

WHEREFORE, Plaintiff respectfully requests the following relief:

(a) A declaration that Plaintiff's loan was induced by unconscionable conduct and/or contained unconscionable terms, and that it is thus unenforceable, pursuant to the common law of West Virginia;

(b) Actual damages equivalent to the amount paid plus amount claimed due under the loan, and incidental and consequential damages;

- (c) Appropriate equitable relief; and
- (d) Such other relief as the Court may deem equitable and just.

COUNT III – FRAUD AS DEFENSE TO CONTRACT

34. The Plaintiff incorporates the preceding paragraphs by reference.

35. BANA misrepresented to Plaintiff that the subject property was not located in a flood zone. This was false.

36. BANA intentionally obtained an appraiser to misrepresent the flood zone designation for the purpose of suppressing the true designation and inducing Plaintiff into the loan.

37. BANA's misrepresentations and suppressions were intentional and material.

38. Plaintiff reasonably relied upon the misrepresentations of Defendant when he entered into the purchase and loan.

39. Plaintiff has been damaged by BANA's misrepresentations and suppressions of fact by entering into a loan in excess of the market value of the home.

WHEREFORE, Plaintiff respectfully requests the following relief:

- (a) Appropriate equitable; and,
- (b) Such other relief as the Court may deem appropriate and just.

COUNT IV – BREACH OF CONTRACT

40. Plaintiff incorporates the preceding paragraphs by reference.

41. Plaintiff had an agreement with Defendant BANA that BANA would inform him if the subject property was located in a flood zone.

42. Plaintiff complied with the agreement and satisfied all conditions set forth therein.

43. Defendant breached the agreement by misrepresenting to Plaintiff that the subject property was not located in a flood zone.

44. Defendant's breach caused damage to Plaintiff.

WHEREFORE, Plaintiff respectfully requests the following relief:

- (a) Actual damages; and
- (b) Such other relief as the Court deems equitable and just.

COUNT V – JOINT VENTURE AND AGENCY

45. The Plaintiff incorporates the preceding paragraphs by reference.

46. BANA and the holder had agreements, either written, oral, constructive, or otherwise for a single business enterprise, that is the closing of the sale and financing of the home at issue in this case.

47. Defendants shared in the profits and losses of the single business enterprise.

48. Defendants combined their money, skill, and/or knowledge to carry out this single business enterprise.

49. Each of the acts of the Defendants were done in furtherance of a joint venture in which each of the acts of the Defendants were pursued with a joint purpose, and each of the acts of one is the act of the others.

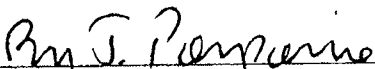
50. The Defendant lender and holder exercised a degree of control over the appraiser in carrying out the single business enterprise.

51. At all times relevant hereto, the acts of the appraiser were done as agents for the Defendants. The Defendants and appraiser's acts were conducted as a part of the principal-agency relationship between the parties.

WHEREFORE, the Plaintiff respectfully requests that the Court declare Defendants jointly and severally liable.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Respectfully Submitted:
MICHAEL L. WILLIAMS,
By counsel.


Bren J. Pomponio, Esq. (WV Bar #7774)
Mountain State Justice, Inc.
1217 Quarrier Street
Charleston WV 25301
Tel: 304.344.3144
Fax: 304.344.3145
bren@msjlaw.org

D. Christopher Hedges, Esq. (WV Bar # 7894)
Calwell Luce diTrapano PLLC
500 Randolph St.
Charleston, WV 25311
Tel: 304.343.4323
Fax: 304.344.3684
chedges@cldlaw.com
Counsel for Plaintiff

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

MICHAEL L. WILLIAMS,

Plaintiff,

v.

Case No. 19 CLK 13

BANK OF AMERICA, N.A.,
WILMINGTON TRUST, N.A. d/b/a
M&T BANK, and JOHN DOE TRUSTEE,

Defendants.

SERVE:

BANK OF AMERICA, N.A.
100 North Tryon Street
Charlotte, North Carolina 28202

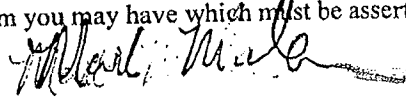
SUMMONS

To: The Above-Named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA,

You are hereby summoned and required to serve upon **Bren J. Pomponio / Mountain State Justice, Inc., whose address is 1217 Quarrier Street, Charleston, West Virginia, 25301,** an answer, including any related counterclaim you may have, to the Complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you.

You are required to serve your answer to the Complaint within **thirty (30) days** after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.



Clerk of Court

Date: 5/14/19

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

MICHAEL L. WILLIAMS,

Plaintiff,

v.

Case No. 19C4613

BANK OF AMERICA, N.A.,
WILMINGTON TRUST, N.A. d/b/a
M&T BANK, and JOHN DOE TRUSTEE,

Defendants.

SERVE:

WILMINGTON TRUST, N.A.
d/b/a M&T BANK
1100 North Market Street
Wilmington, DE 19801

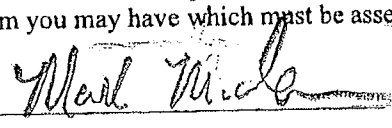
SUMMONS

To: The Above-Named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA,

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You are required to serve your answer to the Complaint within **thirty (30) days** after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.


Clerk of Court

Date: 5/14/19



West Virginia E-Filing Notice

CC-23-2019-C-66

Judge: Joshua Butcher

To: Nicholas Mooney
nmooney@spilmanlaw.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA
MICHAEL L. WILLIAMS v. BANK OF AMERICA
CC-23-2019-C-66

The following supporting documents was FILED on 6/24/2019 11:23:47 AM

Notice Date: 6/24/2019 11:23:47 AM

Mark McGrew
CLERK OF THE CIRCUIT
Logan
Room 311
LOGAN, WV 25601

(304) 792-8550
mark.mcgreg@courtsww.gov

E-FILED | 6/24/2019 11:23 AM
CC-23-2019-C-66
Logan County Circuit Clerk
Mark McGrew

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

MICHAEL L. WILLIAMS,

Plaintiff,

v.

**Civil Action No. 19-C-66-B
Honorable Joshua Butcher**

**BANK OF AMERICA, N.A.,
WILMINGTON TRUST, N.A. d/b/a
M&T BANK, and JOHN DOE TRUSTEE,**

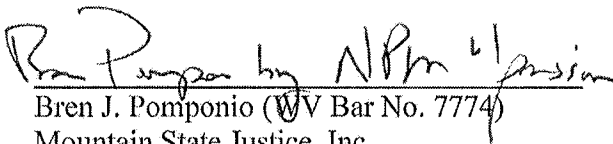
Defendants.

STIPULATION EXTENDING DEADLINE

Plaintiff Michael L. Williams ("Plaintiff") and defendant M&T Bank, incorrectly named in the Complaint as Wilmington Trust, N.A., d/b/a M&T Bank ("M&T"), stipulate and agree that the deadline for M&T to file its responsive pleading to Plaintiff's Complaint has been extended to July 22, 2019.

Dated: June 24, 2019

Stipulated and Agreed to by:



Bren J. Pomponio (WV Bar No. 7774)
Mountain State Justice, Inc.
1217 Quarrier Street
Charleston, WV 25301
304.344.3144; 304.344.3145 (facsimile)
bren@msjlaw.org

D. Christopher Hedges (WV Bar No. 7894)
Calwell Luce diTrapano PLLC
500 Randolph Street
Charleston, WV 25302
304.343.4323; 304.344.3684 (facsimile)
chedges@cldlaw.com
Counsel for Plaintiff



Nicholas P. Mooney II (WV Bar No. 7204)
Tai Shadrick Kluemper (WV Bar No. 12261)
Spilman Thomas & Battle, PLLC
P.O. Box 273
Charleston, WV 25321
304.340.3800; 304.340.3801 (facsimile)
nmooney@spilmanlaw.com
tkluemper@spilmanlaw.com
Counsel for M&T Bank, incorrectly named in
the Complaint as Wilmington Trust, N.A.,
d/b/a M&T Bank

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

MICHAEL L. WILLIAMS,

Plaintiff,

v.

Civil Action No. 19-C-66-B
Honorable Joshua Butcher

BANK OF AMERICA, N.A.,
WILMINGTON TRUST, N.A. d/b/a
M&T BANK, and JOHN DOE TRUSTEE,

Defendants.

CERTIFICATE OF SERVICE

I, Nicholas P. Mooney II, counsel for Wilmington Trust, N.A., d/b/a M&T Bank, hereby certify that on this 24th day of June, 2019, I served a true and exact copy of the **Stipulation Extending Deadline** to plaintiff's counsel, via electronic mail and regular United States Mail, addressed as follows:

Bren J. Pomponio, Esq.
Mountain State Justice, Inc.
1217 Quarrier Street
Charleston, WV 25301

D. Christopher Hedges, Esq.
Calwell Luce diTrapano PLLC
500 Randolph Street
Charleston, WV 25302



Nicholas P. Mooney II (WV Bar No. 7204)